

Maine Revised Statutes
Title 35-A: PUBLIC UTILITIES
Chapter 13: PROCEDURE

**§1316. TESTIMONY PRESENTED BY EMPLOYEES OF PUBLIC UTILITIES OR
COMPETITIVE SERVICE PROVIDERS TO LEGISLATIVE COMMITTEES AND
TO THE PUBLIC UTILITIES COMMISSION**

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, expressed or implied, but does not include an independent contractor. [1987, c. 769, Pt. A, §137 (AMD).]

B. "Employer" means a public utility or competitive service provider licensed to do business in this State with one or more employees. [1999, c. 398, Pt. A, §21 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF).]

C. "Legislative committee" means a joint standing committee or a joint select committee of the Legislature, a task force, commission or council or any other committee established by the Legislature and composed wholly or partly of Legislators for the purpose of conducting legislative business. [1987, c. 141, Pt. A, §6 (NEW).]

D. "Own time" means an employee's vacation or personal time, earned as a condition of employment. [1987, c. 141, Pt. A, §6 (NEW).]

[1999, c. 398, Pt. A, §21 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

2. Right to provide testimony. Employees of a public utility or competitive service provider have the right to represent themselves and to testify before a legislative committee or the commission on their own time. An employee of a public utility or competitive service provider who complies with this section may not be denied the right to testify before a legislative committee or the commission.

[1999, c. 398, Pt. A, §21 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

3. Discharge of, threats to or discrimination against employees of utility service providers for testimony presented to legislative committees or the commission. Unless otherwise provided for, a supervisor may not discharge, threaten or otherwise discriminate against an employee of a public utility or competitive service provider regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee, in compliance with this section, in good faith testifies before or provides information to a legislative committee or to the commission regarding the operation of the business of a public utility or competitive service provider or because the employee brings the subject matter of the testimony or information to the attention of a person having supervisory authority.

This subsection does not apply to an employee who has testified before or provided information to a legislative committee or to the commission unless the employee has first brought the subject matter of the testimony or information in writing to the attention of a person having supervisory authority with the employer and has allowed the employer a reasonable time to address the subject matter of the testimony or information. If appropriate, the employer shall respond in writing.

[1999, c. 398, Pt. A, §21 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

4. Exceptions. The protection created in subsection 3 does not apply to testimony that, upon reasonable inquiry by the employee, would be found to be false, slanderous, libelous or defamatory or to testimony that violates a term or condition of a collectively bargained agreement or to testimony that discloses trade secrets or corporate strategy, the disclosure of which would result in harm to the employer.

[1999, c. 398, Pt. A, §21 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

5. Civil actions for injunctive relief or other remedies. An employee of a public utility or competitive service provider who alleges a violation of rights under this section and who has made reasonable efforts to exhaust all grievance procedures, as provided for in the contract of employment or which otherwise may be available at the employee's place of employment, may bring a civil action, including an action for injunctive relief, within 90 days after the occurrence of that alleged violation or after the grievance procedure or similar process terminates. The action may be brought in the Superior Court for the county where the alleged violation occurred, the county where the complainant resides or the county where the person against whom the civil complaint is filed resides. An employee must establish each and every element of the employee's case by a preponderance of the evidence.

[1999, c. 398, Pt. A, §21 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

6. Remedies ordered by court. A court, in rendering a judgment in an action brought pursuant to this section, may order reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights or any combination of these remedies. A court may also award the prevailing party all or a portion of the costs of litigation, including reasonable attorneys' fees and witness fees, if the court determines that the award is appropriate.

[1987, c. 141, Pt. A, §6 (NEW) .]

7. Collective bargaining rights. This section does not diminish or impair the rights of a person under any collective bargaining agreement.

[1987, c. 141, Pt. A, §6 (NEW) .]

8. Jury trial; common-law rights. Any action brought under this section may be heard by a jury. Nothing in this section derogates any common-law rights of an employee or employer.

[1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1987, c. 769, §A137 (AMD). 1999, c. 398, §A21 (AMD). 1999, c. 398, §§A104,105 (AFF).

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